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February 18, 2004

*Ex Parte Filing*

William Maher, Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: BellSouth – WC Docket No. 03-251

Dear Mr. Maher:

In the above-captioned proceeding, the Federal Communications Commission (“Commission” or “FCC”) is considering BellSouth Telecommunications, Inc.’s (“BellSouth”) request to preempt several state public utility commissions (“PUCs”) from directing BellSouth to provide either BellSouth’s “wholesale broadband transmission or its retail Internet access service over UNE [unbundled network element] loops leased by CLECs [competitive local exchange carriers] (either on a stand-alone basis or as part of the UNE platform (‘UNE-P’)).”<sup>1</sup> Essentially, BellSouth has decided that it does not want any consumer (business or residential) to be able to purchase BellSouth’s DSL service, even indirectly, unless the consumer is also willing to purchase voice services from BellSouth. As is more fully set forth in the record in this proceeding, several PUCs have refused to permit BellSouth to tie its DSL service to the mandatory purchase of voice service. BellSouth has, therefore, sought FCC preemption of those PUCs in order to maintain more control of the local market.

Americatel Corporation (“Americatel”)<sup>2</sup> and many other parties oppose BellSouth’s request because it is anti-competitive in nature and harms consumers and competitors alike. It would be

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<sup>1</sup> BellSouth Emergency Request for Declaratory Ruling, filed December 9, 2003.

<sup>2</sup> Americatel, a Delaware corporation that is a subsidiary of ENTEL Chile, is a common carrier providing domestic and international telecommunications services. ENTEL Chile is the largest provider of long distance services in Chile and also provides wireless and competitive local services in the Chilean market. Americatel also operates as an Internet Service Provider (“ISP”). Americatel specializes in serving Hispanic communities throughout the United States, offering presubscribed (1+), dial-around, and prepaid long distance services, as well as private line and other high-speed services to its business customers. The majority of traffic carried by Americatel is dial-around in nature.

unsound policy and contrary to the Commission's long-held principles of promoting competition if consumers could not freely mix and match services from multiple carriers, as well as purchase bundled packages of services from a single supplier.

Attached is a copy of a news article from the February 17, 2004 *Denver Post*, in which Qwest Communications' ("Qwest") Chief Executive Officer Richard Notebaert announced that Qwest will no longer require a consumer to purchase voice services from Qwest in order to be permitted to purchase DSL service from Qwest.<sup>3</sup> According to Mr. Notebaert, DSL customers will no longer be tied to Qwest for their dial tone service, but will be free to obtain local service from competitive local exchange carriers ("CLECs") or from wireless carriers.

Qwest's decision to permit consumers to assemble their own telecommunications service packages is consistent with principles of fair competition and consumer control of the market place.<sup>4</sup> Americatel submits that Qwest's action, which does not diminish its ability to offer service bundles to consumers, provides another reason why the FCC should deny BellSouth's petition.

If you have any questions about this letter, please contact me.

Sincerely,

Robert H. Jackson  
Reed Smith LLP  
Counsel for Americatel Corporation

Copies to: Jeffrey Carlisle  
Carol Matthey  
Michelle M. Carey  
Janice Myles

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<sup>3</sup> <http://www.denverpost.com/Stories/0,1413,36~33~1960455,00.html> (visited February 17, 2004).

<sup>4</sup> Given the nature of the likely pricing of the respective products (\$33 per month for Qwest's stand-alone DSL and \$43 per month for a DSL-voice service package), however, it remains to be seen what the true competitive impact will be of the Qwest announcement.